www.pwc.com/my

Stay current
Be tax savvy

TaXavvy

Special Edition:
The 2013 Budget
28 September 2012

pwc

Inside this issue

Welcome to our ***TaXavvy Special Edition: Budget 2013,*** which brings to you the key proposals of the 2013 Budget announced on 28 September 2012.

2013 Budget highlights

Five main proposals

1 ***Tax treatment for a Business Trust***

The government has set out the proposed taxation treatment of business trust as well as incentives.

2 ***Tax treatment for a Limited Liability Partnership***

The government has set out the proposed tax treatment for Limited Liability Partnerships (LLPs).

3 ***Review of Real Property Gains Tax rates***

To curb speculation in the real property market, the Real Property Gains Tax rates have been reviewed.

4 ***Reduction in personal tax rate***

The government has reviewed the personal tax rates to help reduce the costs of living and to increase the disposable income of the Rakyat.

5 ***Time bar period shortened from 6 years to 5 years***

The current time bar of 6 years for the raising of assessment or additional assessment is to be reduced to 5 years effective from 1 January 2014.

Tax treatment for a Business Trust

1 A Business Trust ("BT") is established under the Capital Markets and Services Act 2007 and adopts the unit trust structure as a basis for its business. The operations of a BT is usually conducted by a trustee-manager ("TM") who acts as a trustee on behalf of the BT and the unit holders.

To promote the development and investment in Business Trust ("BT"), the following are proposed:-

i. BT be given income tax, stamp duty and real property gains tax treatments similar to that of a company, effective from the coming into operation of the Capital Markets and Services (Amendment) Act 2012;

ii. BT be given stamp duty exemption on instruments of transfer of businesses, assets or real properties acquired, where the instruments are executed from 1 January 2013; and

iii. The disposer be given real property gains tax exemption on gains arising from the disposal of real properties or shares in real property companies to BT , from 1 January 2013.

Incentives (ii) and (iii) above are provided on a one-off basis at the initial establishment stage of the BT.

2013 Budget highlights

2 *Tax treatment for a Limited Liability Partnership (LLP)*

A LLP is to be accorded income tax treatment similar to that of a company. The proposed treatment includes:-

- A LLP is taxed at the rate of 25%. A LLP with capital contribution of not more than RM2.5 million will enjoy a preferential tax rate of 20% on the first RM500,000 chargeable income.
- Any profit paid, credited or distributed to partners by a LLP is exempted from tax.
- Remuneration paid to a partner by a LLP must be provided in the LLP agreement made in accordance with the Limited Liability Partnerships Act 2012 in order to qualify for tax deduction.
- The unabsorbed business losses and capital allowances of a company or partnership prior to conversion into a LLP can be carried forward and utilised against the future income of the LLP.

The above proposals will be effective on the coming into operation of the Limited Liability Partnerships Act 2012.

3 *Review of Real Property Gains Tax (RPGT) rates*

To further curb speculative activities in the real property market, the following revisions to the RPGT rates have been proposed, for disposals of real properties and shares in real property companies ("RPC") from 1 January 2013.

Disposal of real property / RPC shares	Companies, Individuals (citizens, non-citizens and permanent residents)	
	Existing RPGT rate (%)	Proposed RPGT rate (%) (from 1.1.2013)
Within 2 years	10	15
In the 3rd to the 5th year	5	10
In the 6th year onwards	0	0

2013 Budget highlights

4

Reduction in personal tax rate

The 2013 Budget announced the reduction in personal tax rates for limited categories of income. A 1 percent cut in tax rates affecting the chargeable income tax bands between RM2,500 to RM50,000 was introduced. The net impact of this reduction is a maximum savings of RM475.

The new schedule of tax rates for a resident individual is as follows:

For every ringgit of the first	**5,000**	**0%**
For every ringgit of the next	15,000	**2%**
For every ringgit of the next	15,000	**6%**
For every ringgit of the next	15,000	**11%**
For every ringgit of the next	20,000	19%
For every ringgit of the next	30,000	24%
For every ringgit exceeding	100,000	26%

This proposal is effective from 1 January 2013, i.e. Year of Assessment (YA) 2013

5

Time bar period be shortened from 6 years to 5 years

To provide certainty to taxpayers and in line with best practices, it is proposed that the time bar provided in the ITA, Petroleum (Income Tax) Act 1967 and Real Property Gains Tax Act 1976, for the following be shortened from 6 years to 5 years effective from 1 January 2014:-

- raising of income tax assessments or additional assessments;
- claim of refund of tax overpaid; and
- application for relief in respect of error or mistake.

Treatment of treasury shares acquired for employee share schemes

A special provision for the treatment of treasury shares acquired by companies to be offered to employees has been proposed:-

- A deduction is given to the company on the cost of acquisition of the treasury shares less the amount payable by its employee. The deduction is given in the YA where the employee exercises his rights to acquire the shares.
- The cost of acquisition of the shares is determined on a first-in first-out basis.
- Any excess of the amount payable by the employee over the cost of acquisition of the shares can be offset against the cost of future treasury shares transferred to employees.
- In a group company situation where treasury shares acquired by a holding company are transferred to an employee of its subsidiary, no deduction for the cost of the treasury shares is given to the holding company. However, where an amount is paid/payable by the subsidiary to its holding company in respect of the treasury shares, a deduction for the amount paid/payable will be given to the subsidiary company on the date of transfer of the shares or the date of payment to the holding company, whichever is the later.
- Treasury shares are transferred when the employee acquires legal and beneficial interest in the shares.

The above proposal is effective from Year of Assessment (YA) 2013.

Losses of a takaful operator

The adjusted loss from the business of a family fund of a takaful operator is not allowed to be deducted against the aggregate statutory income from other sources. Any unabsorbed business loss from sources other than the business of the family fund is not allowed to be set off against the statutory income of the family fund for subsequent YAs.

(Effective from YA 2012)

Treatment of assets classified as Held For Sale under applicable accounting standards

The proposed tax treatment of an asset which is classified as Held For Sale (HFS) under applicable accounting standards is as follows:-

(i) Where the asset is disposed in the basis period it is classified as HFS

The asset is treated as disposed in that basis period. The disposal value is the market value of the asset when it is classified as HFS or the net sale proceeds, whichever is greater

(ii) When the asset is disposed in the basis period following that in which the asset is classified as HFS

The asset is deemed disposed in that following basis period. The disposal value is the market value of the asset at the end of the basis period such asset is classified as HFS or the net sales proceeds, whichever is greater

(iii) When the asset is not disposed in the following basis period the asset is classified as HFS

The asset is deemed to be disposed at the end of the basis period following that in which the asset is classified as HFS. The disposal value is the market value of the asset at the end of that following basis period.

The Finance Bill also sets out adjustments that are required to be made for the residual value of the asset in (ii) and (iii) above and the tax treatment to be adopted where the asset classified as HFS is subsequently brought back to use.

(Effective from YA 2013)

Interest income

Interest income, other than interest income derived from the licensed business of lending money , would not be considered as business income.

(Effective from YA 2013)

Issuance of agro-sukuk, retail sukuk and retail bonds

To promote the issuance of sukuk for the agricultural sector, the 2013 Budget proposed that double deduction be given on expenses for the issuance of Agro-Sukuk approved by the Securities Commission or the Labuan Financial Services Authority from YA 2013 to YA 2015.

To reduce the cost of issuance of retail sukuk and bonds, the following are proposed:

i. Double deduction on additional expenses for the issuance of retail sukuk and retail bonds from YA 2012 to YA 2015; and

i. Stamp duty exemption on instruments relating to the subscription of retail sukuk and retail bonds executed by individual investors from 1 October 2012 to 31 December 2015.

Abandoned housing projects

To revive abandoned housing projects which are certified by the Ministry of Housing and Local Government, the following incentives are proposed:

	Tax incentive
Banking and financial institution	Tax exemption on interest income received from the rescuing contractor
Rescuing Contractor	Double deduction on interest expense and all costs involved in obtaining loans to revive the abandoned project

The loans must be approved from 1 January 2013 to 31 December 2015 and applicable for 3 consecutive YAs from the year of loan approval.

Stamp duty exemption is given on sales & purchase agreements executed from 1 January 2013 to 31 December 2015 as follows:

	Stamp duty exemption
Rescuing Contractor	• Instrument of loan agreements to finance the revival of the abandoned housing project; and • Instruments of transfer of land or houses in the abandoned housing project
Original house purchaser of the abandoned projects	• Instrument of loan agreements for additional financing; and • Instruments of transfer of the house

Angel investor

Currently, the value of investment made by an angel investor in a venture company at seed capital financing, start-up financing and early stage financing, is only deductible against the angel investor's business income. To enhance the incentive, it has been proposed that the deduction be allowed against all income of the angel investor. The qualifying criteria for this incentive is as follows:

A. <u>Angel investor</u>

i. An individual who is not associated to the venture company prior to investing;

ii. A tax resident with an annual income not less than RM180,000;

iii. Holds at least 30% of the shares in the venture company for a period of at least 2 years;

iv. All shares in the venture company must be paid in cash.

B. <u>Venture company</u>

i. 51% shares in the company is owned by Malaysians;

ii. Qualifying activities of venture company are approved by the Minister of Finance; and

iii. Accumulated profit is not more than RM5 million and has a track record of less than 3 years.

The incentive is effective for applications received by the Ministry of Finance from 1 January 2013 to 31 December 2017.

Tax incentives

Childcare centres

To encourage employers to provide childcare centres to employees, the following have been proposed:-

<u>Employers</u>

- The existing single deduction given on expenditure incurred for the provision and maintenance of childcare centres and childcare allowance given to employees, have been enhanced to a double deduction.

<u>Operators of new and existing private childcare centres registered with the Social Welfare Department</u>

- Tax exemption at the statutory level on all income for a period of 5 years; and
- Industrial Building Allowance at the annual rate of 10% for buildings used as childcare centers.

The above incentives are effective from YA 2013.

Pre-school education

To reduce the operational cost of maintenance and to enhance the quality of private pre-schools, the following incentives have been proposed for new and existing private pre-schools registered with the State Education Department:-

- Tax exemption at the statutory level on all income for a period of 5 years; and
- Industrial Building Allowance at the annual rate of 10% on pre-school buildings.

The above incentives are effective from YA 2013 .

Tour operators

The following incentives are proposed for tour operators following the expiry of existing incentives in YA 2011:

100% tax exemption on statutory income derived from the business of operating:-

- tour packages to Malaysia participated by not less than 750 inbound tourists per year; and
- tour packages within Malaysia participated by not less than 1,500 local tourists per year.

The above incentives are effective from YA 2013 to YA 2015.

Security control and surveillance equipment

Currently, Accelerated Capital Allowance (ACA) is given on expenses incurred for:

- Security control equipment installed in factories and all business premises; and
- Global Positioning System installed in lorry containers bearing Carrier License A and cargo lorries bearing Carrier License A and C.

The above incentives are extended for another 3 years to YA 2015. In addition, the following enhancements are proposed:

- the ACA be extended to companies that install security control and surveillance equipment in residential areas; and
- The existing list of equipment to also include safety mirrors and panic button.

Expansion of tax incentives for commercialisation of public sector research and development (R&D) findings

To further promote the commercialisation of R&D findings of public research institutions, the following incentives which currently only apply to resource-based R&D findings, are extended to non-resource based R&D findings:-

- <u>Investor company</u>

  Tax deduction equivalent to the value of investment made in the subsidiary company that undertakes commercialisation of R&D findings.

- <u>Subsidiary company that undertakes commercialisation of R&D findings</u>

  Income tax exemption of 100% of statutory income for 10 years.

Effective for applications received by MIDA from 29 September 2012 to 31 December 2017.

Exemption on income of an annuity fund

To encourage investment in annuity schemes, tax exemption is given on income received by annuity funds effective from YA 2012.

Personal Tax

Oil and Gas Industry

The Government aims to transform Malaysia from a producer to a global integrated trading hub for oil and gas. It is proposed that qualified companies which have invested in refinery activities on petroleum products be given Investment Tax Allowance of 100% for a period of 10 years.

The Global Incentive for Trading (GIFT) programme

To encourage more global traders to set up trading business in Labuan, the following enhancement of the incentives under the GIFT programme have been proposed:-

- 100% income tax exemption on statutory income for first 3 years of operations for LNG trading companies;
- Commodity trading approved under GIFT will be extended to include other commodities such as agriculture, refined raw materials, base materials and chemicals.

The Tun Razak Exchange

To promote Kuala Lumpur as a preferred investment centre to major financial institutions, the following incentives are proposed:-

- 100% income tax exemption for 10 years for Tun Razak Exchange (TRX) status companies;
- Stamp duty exemption, industrial building allowance and accelerated capital allowance for TRX Marquee- status companies;
- Tax exemption for property developers.

Withdrawal of contributions made to Private Retirement Scheme

The Private Retirement Fund framework introduced under the Capital Markets and Services (Amendment) Act of 2011 provided the legal framework and administration of the Private Retirement Schemes ("PRS").

The latest measure to encourage members of PRS to retain and maintain their savings for continuous investment in the scheme and discourage pre-retirement withdrawals is the proposal to levy a flat tax penalty of 8% on contributions withdrawn by an individual member before reaching the age of 55 (other than by reason of death or permanent departure from Malaysia). The amount is to be deducted by the PRS providers and remitted to the tax authorities within one month after the withdrawn contribution is credited to the member's account.

Where the PRS provider fails to remit the said tax to the tax authorities by the due date, he is required to pay an increased amount equivalent to 10% of the amount that he fails to pay.

This proposal is effective from 1 January 2013.

Personal Reliefs

The current individual claim for child relief of RM4,000 in respect of an unmarried child over the age of 18 years and receiving full time education or serving under articles or indentures with a view of qualifying in a trade or profession has been in place since YA 2006. Therefore, the newly proposed increase to RM6,000 is a long awaited change in recognising the increased financial burden on parents due to the high cost of education.

This proposal is effective from YA 2013.

In addition to the increased child relief, the RM3,000 relief in respect of the amount deposited into Skim Simpanan Pendidikan Nasional account (established under the Perbadanan Tabung Pendidikan Tinggi Nasional Act 1997) by an individual taxpayer for his/her child has similarly been increased to RM6,000.

This proposal is effective from YA 2012 to YA 2017.

Other proposals

Appeal against imposition of withholding tax

It is proposed that a payer who is liable to make payment in respect of an amount under Sections 109, 109B or 109F of the ITA, may appeal to the Special Commissioners of Income Tax on the basis that the amount is not liable to be paid under the ITA. The appeal has to be made within 30 days from the date the amount is due to be made to the Inland Revenue Board (IRB).

However, this appeal provision does not apply if:-
- an appeal has been filed to the Special Commissioners of Income Tax by the non-resident;
- the payment is disallowed as a deduction to the payer under Section 39 of the ITA; or
- the WHT has not be paid to the IRB.

This proposal is effective from 1 January 2013.

Co-operative income tax rates

Co-operative income tax rates are to be reduced from 1% to 7% for the various chargeable income bands.

(Effective from YA 2013)

Review of stamp duty exemption on purchase of first residential property

To further reduce the cost of owning the first residential property , the following have been proposed:-

- Extending the existing 50% stamp duty exemption for the purchase of first residential property to 31 December 2014;
- Raising the qualifying price of the residential property from RM350,000 to RM400,000 from 1 January 2013.

The sales and purchase agreements must be executed from 1 January 2013 to 31 December 2014.

Real Property Gains Tax (RPGT)

i. A person who disposes a chargeable asset to an acquirer may furnish to the Director General a notification in a prescribed form if the disposal is not subject to tax or exempted from tax under the RPGT Act. The notification must also be served to the acquirer within 60 days from the date of disposal of the asset.

ii. A 10% penalty on the tax payable will be imposed on the disposer, if the acquirer fails to retain and remit the amount of consideration value or 2% of the consideration value of a real property (whichever is lower) to the IRB, due to incorrect or wrong information provided by the disposer.

iii. An acquirer is not required to retain and remit an amount to the IRB if a notice of non-chargeability is served to the acquirer within 60 days after the date of disposal of a chargeable asset.

iv. A disposer of a part of a chargeable asset is eligible to claim part of the existing RM10,000 exemption granted based on a prescribed formula.

(Effective upon the gazetting of the Finance (No.2) Bill 2012)

Petroleum (Income Tax) Act 1967 ("PITA")

Proposals have been made to align the PITA to the ITA by introducing the following:-

- Disallowance of deduction of payments made to non-residents where withholding tax has not been deducted.
- Failure to keeps records is an offence.
- Substitution of prices in transactions not carried out on an arms-length basis and disallowance of excessive interest charged.

(Effective upon the gazetting of Finance (No.2) Bill 2012)

The Academy brings to you…

The PwC Budget Seminar

Kuala Lumpur (1/2 day)
Date: 4 October 2012 (Thursday)
Venue: Hilton Kuala Lumpur, KL Sentral

Contact: Che Sham Ahmad at 03-2173 0410

Penang (1 day)
Date: 9 October 2012 (Tuesday)
Venue: Hotel Equatorial

Contact: Ann Yew or Ong Bee Ling at 04-238 9291 / 04-238 9170

Johor Bahru (1 day)
Date: 10 October 2012 (Wednesday)
Venue: Persada International Convention Centre

Contact: Noraini Riduan or Anson Loo at 07-222 4448

Featuring

2013 Budget – What's in it for you?

Our tax specialists will share with you an in-depth analysis of Budget 2013 which is to be tabled on 28 September 2012. They will also share implications from these proposals as well as how they affect you.

Penang
Also featuring Current economic development , 2012 accounting developments , GST and Transfer pricing

Johor Bahru
Also featuring Changes in personal, 2012 accounting developments , GST and Transfer pricing

For more information/to register please visit PwC's website at www.pwc.com/my/en/TheAcademy

PwC contacts

Our offices

Kuala Lumpur
Jagdev Singh
Tel: +60(3) 2173 1469
jagdev.singh@my.pwc.com

Penang / Ipoh
Tony Chua
Tel: +60(4) 238 9118
tony.chua@my.pwc.com

Johor Bahru
Lorraine Yeoh
Tel: +60(3) 2173 1499
lorraine.yeoh@my.pwc.com

Norafiza Abdul Rahman
Tel: +60(7) 222 4448
norafiza.abdul.rahman
@my.pwc.com

Melaka
Teh Wee Hong
Tel: +60(3) 2173 1595
wee.hong.teh@my.pwc.com

Au Yong
Tel: +60(6) 283 6169
paik.hup.au@my.pwc.com

Labuan
Jennifer Chang
Tel: +60(3) 2173 1828
jennifer.chang@my.pwc.com

Our services

Consumer & Industrial Product Services
Theresa Lim
Tel: +60 (3) 2173 1583
theresa.lim@my.pwc.com

Margaret Lee
Tel: +60(3) 2173 1501
margaret.lee.seet.cheng
@my.pwc.com

Emerging Markets
SM Thanneermalai
Tel: +60(3) 2173 1582
thanneermalai.somasundaram
@my.pwc.com

Corporate Services
Theresa Lim
Tel:+60(3) 2173 1583
theresa.lim@my.pwc.com

Energy, Utilities & Mining / Technology, InfoComm & Entertainment
Khoo Chuan Keat
Tel: +60(3) 2173 1368
chuan.keat.khoo@my.pwc.com

Transfer Pricing & Investigations
SM Thanneermalai
Tel: +60(3) 2173 1582
thanneermalai.somasundaram
@my.pwc.com

International Assignment Services
Sakaya Johns Rani
Tel: +60 (3) 2173 1553
sakaya.johns.rani@my.pwc.co
m

Japanese Business Consulting
Junichi Fujii
Tel: +60(3) 2173 1480
junichi.fujii@my.pwc.com

Financial Services
Jennifer Chang
Tel: +60 (3) 2173 1828
jennifer.chang@my.pwc.com

International Tax Services / Mergers & Acquisition
Frances Po
Tel: +60(3) 2173 1618
frances.po@my.pwc.com

Indirect Tax
Wan Heng Choon
Tel: +60 (3) 2173 1488
heng.choon.wan@my.pwc.com

Worldtrade Management Services
Huang Shi Yang
Tel:+60(3) 2173 1657
shi.yang.huang@my.pwc.com

pwc.com/my